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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 vs.

12 TIMOTHY ANTHONY,

13 Defendant.

Magistrate No. 2:20-mj-00315-DJA

**STIPULATION TO CONTINUE
PRELIMINARY HEARING**
(First Request)

14 IT IS HEREBY STIPULATED AND AGREED by and between, Nicholas A.
15 Trutanich, United States Attorney, District of Nevada, Melanee Smith, Assistant United
16 States Attorney, representing the United States of America, and Todd Leventhal, representing
17 Defendant Timothy Anthony, that the preliminary hearing in the above-captioned case,
18 which is currently scheduled for May 14, 2020 at 4:00 p.m., be vacated and continued to
19 May 19, 2020 at 1:00 p.m.

20 The Stipulation is entered into for the following reasons:

21 1. In light of the COVID-19 pandemic and as authorized by the Coronavirus Aid,
22 Relief, and Economic Security Act (CARES Act), the Chief Judge of the District of Nevada
23 issued General Order 2020-05 on March 30, 2020. General Order 2020-05 authorizes the use
24 of videoconferences in criminal hearings, including preliminary hearings.

1 2. Pursuant to the CARES Act and General Order 2020-05, and to permit
2 appropriate social distancing during this COVID-19 pandemic, the preliminary hearing in this
3 matter was scheduled to be held via videoconference for May 14, 2020 at 4 p.m.

4 3. Judge Albregts' chambers contacted counsel for the parties and informed them
5 that, due to the Court's limited videoconferencing resources, it is necessary to continue the
6 preliminary hearing in this case.

7 4. Federal Rule of Criminal Procedure 5.1(c) provides that the magistrate judge
8 must hold the preliminary hearing no later than 14 days after the initial appearance if the
9 defendant is in custody. Here, the defendant's initial appearance was April 30, 2020, so the
10 deadline for the preliminary hearing is May 14, 2020.

11 5. Federal Rule of Criminal Procedure 5.1(d), in turn, provides that a magistrate
12 judge may extend the time limits in Rule 5.1(c) with the defendant's consent and upon a
13 showing of good cause, taking into account the public interest in the prompt disposition of
14 criminal cases. Because of the COVID-19 pandemic, and the resulting various closures,
15 resource limitations, and social distancing guidelines, good cause exists to extend the deadline
16 for the preliminary hearing.

17 6. The Court made it known that beginning the week of May 17, 2020 in-person
18 hearings would resume when appropriate. Given the limited resources for video conferencing
19 at Nevada Southern Detention Center and the complications that can arise when video
20 conferencing, the parties believe holding an in-person hearing in this case is appropriate.

21 7. The defendant is in custody but consents to the continuance.

22 8. The time from May 14, 2020 through May 19, 2020 will be excludable under
23 the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(7)(A), which provides
24 that the Court may exclude time arising from a continuance upon finding that the ends of

1 justice served by granting the continuance outweigh the best interest of the defendant and the
2 public in a speedy trial.

3 9. The additional time requested by this stipulation is excludable in computing
4 the time within which the indictment must be filed pursuant to the Speedy Trial Act, Title 18,
5 United States Code, Section 3161(b), considering the factors under Title 18, United States
6 Code, Section 3161(h)(7)(A) and (B)(i) and (iv). The additional time requested by this
7 stipulation also is excludable in computing the 90-day speedy trial clock imposed by the
8 Speedy Trial Act, Title 18, United States Code, Section 3161(c), considering the factors under
9 Title 18, United States Code, Section 3161(h)(7)(A) and (B)(i) and (iv).

10 10. This continuance is not sought for purposes of delay, but to account for the
11 Court's limited resources and the necessary social-distancing in light of the COVID-19 public
12 health emergency.

13 11. Denial of this request could result in a miscarriage of justice, and the ends of
14 justice served by granting this request outweigh the best interest of the public and the
15 defendant in a speedy trial.

16 DATED this 14th day of May, 2020.

NICHOLAS A. TRUTANICH
United States Attorney

/s/
MELANEE SMITH
Assistant United States Attorney

/s/
TODD LEVENTHAL
Counsel for Defendant Timothy Anthony

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 vs.

6 TIMOTHY ANTHONY,

7 Defendant.

Magistrate No. 2:20-mj-00315-DJA

**ORDER TO CONTINUE
PRELIMINARY HEARING**

8 IT IS ORDERED that the Preliminary Hearing currently scheduled for Thursday,
9 May 14, 2020 at 4:00 p.m., be vacated and continued to Tuesday, May 19, 2020 at the hour
10 of 1:00 p.m.

11 DATED this 14th day of May, 2020.



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14 Daniel J. Albregts
15 United States Magistrate Judge
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